

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LINDA L. CAIN,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
GINA Y. KRUPKA and)	
UNITED STATES OF AMERICA,)	
)	
Defendants.)	

COMPLAINT

The Plaintiff, Linda L. Cain, by and through their attorney, Gary S. Nitsche, P.A., hereby states the following:

1. This action is based upon the Federal Tort Claims Act, 28 U.S.C. §1364(b), and the Plaintiff resides in the above judicial district and the act and admissions hereby complained of occurred in said district.

2. On or about April 4, 2016, Plaintiff Linda L. Cain was a passenger in a vehicle being operated by David D. Bartsch that was proceeding on Pearsons Corner Road, near the City of Dover, County of Kent, State of Delaware.

3. At or about the same time and place, the Defendant Gina Y. Krupka was operating a vehicle as the agent/or employee of the United States of America while working for the United States Postal Service that was proceeding on Pearsons Corner Road, near the City of Dover, County of Kent, State of Delaware, and negligently caused her vehicle to strike the vehicle in which Plaintiff was occupying.

4. 4. At all times herein relevant thereto, Defendant Gina Y. Krupka was acting as an agent or employee of the United States of America and was acting within the

course and scope of her employment with Defendant, under its direction, supervision, and control.

5. The Defendants Gina Y. Krupka and the United States of America were negligent in that it:

- (a) Failed to maintain a proper lookout;
- (b) Failed to maintain proper control over her vehicle;
- (c) Operated her motor vehicle in a careless manner in violation of 21 *Del. C.* §4176(a);
- (d) Operated her motor vehicle in an imprudent manner in violation of 21 *Del. C.* §4176(a);
- (e) Operated her vehicle without due regard for road and traffic conditions then existing in violation of 21 *Del. C.* §4176(a);
- (f) Failed to maintain a proper lookout in violation of 21 *Del. C.* §4176(b);
- (g) Failed to give her full time and attention to the operation of her motor vehicle in violation of 21 *Del. C.* §4176(b);
- (h) Drove on the left side of the highway in violation of 21 *Del. C.* §4114;
- (i) Failed to make a proper left turn at an intersection in violation of 21 *Del. C.* §4152(a)(2);
- (j) Failed to control the speed of her motor vehicle as was necessary to avoid colliding with another motor vehicle on the highway in violation of 21 *Del. C.* §4168;
- (k) As otherwise will be revealed through discovery in this case.

6. Each of the aforementioned acts of negligence of Defendant Gina Y. Krupka are attributable to Defendant United States of America by reason of the doctrine of *respondeat superior*.

7. Each of the aforementioned acts of negligence of the Defendants constitutes the proximate cause of Plaintiff's injuries and damages.

8. As a proximate result to aforesaid negligence of the Defendants, the Plaintiff has suffered the following injuries and damages:

- (a) Personal injuries all of which may be permanent;
- (b) Pain and suffering;
- (c) Medical expenses in the amount of \$25,615.50, plus future medical expenses.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, in the amount of \$85,000.00, together with costs of this action.

WEIK, NITSCHKE & DOUGHERTY, LLC

/s/ Gary S. Nitsche

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